

**ORDINANCE NO. 1428**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING VOLUME 1: GOALS, OBJECTIVES AND POLICIES OF THE CITY OF NORTH MIAMI 2016 COMPREHENSIVE PLAN, MORE SPECIFICALLY AMENDING THE TEXT OF THE FUTURE LAND USE ELEMENT IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 163.3184(3), FLORIDA STATUTES (2017), AND CHAPTER 29, ARTICLE 3, DIVISION 11, SECTION 3-1102(A) & SECTIONS, 3-1105 THROUGH 3-1110 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES; BY AMENDING THE FUTURE LAND USE ELEMENT AT POLICY 1.20.6 TO CLARIFY THE GROUND FLOOR RETAIL REQUIREMENT; PROVIDING FOR AN INITIAL HEARING AND SUBSEQUENT TRANSMITTAL OF THE PROPOSED AMENDMENT TO THE REVIEWING AGENCIES AND/OR ANY INTERESTED LOCAL GOVERNMENT OR GOVERNMENTAL AGENCY FOR REVIEW UNDER THE EXPEDITED STATE REVIEW PROCESS; AN ADOPTION HEARING AND SUBSEQUENT TRANSMITTAL OF THE PROPOSED AMENDMENTS, AS MAY BE AMENDED TO RESPOND TO COMMENTS FROM THE REVIEWING AGENCIES, TO THE STATE LAND PLANNING AGENCY FOR A DETERMINATION OF COMPLETENESS; REPEAL, CONFLICTS, SEVERABILITY, CORRECTION OF SCRIVENER'S ERRORS, CODIFICATION AND AN EFFECTIVE DATE.**

WHEREAS, the 1985 Florida State Legislature established the Local Government Comprehensive Planning and Land Development Regulation Act ("1985 Act"), which required every local government in the State, including the City of North Miami ("City"), to adopt a detailed comprehensive plan by 1992; and

WHEREAS, in conformity with the 1985 Act, the City adopted its first Comprehensive Plan in 1989, consisting of principles, guidelines, standards, and strategies, arranged in goals, objectives and policies intended to foster the orderly and balanced future economic, social, physical, environmental, and fiscal development of the City; and

WHEREAS, the 2011 Florida State Legislature repealed and replaced the 1985 Local Government Comprehensive Planning and Land Development Regulation Act with the Community Planning Act ("2011 Act") as Part II of Chapter 163, Florida Statutes (F.S.); and

**WHEREAS**, the 2011 Act, through s. 163.3191, Florida Statutes, stipulates that every seven (7) years, every local government shall amend its comprehensive plan pursuant to the provisions set out in Section 163.3164, F.S.; and

**WHEREAS**, on April 26, 2016, the Mayor and City Council of the City unanimously passed Ordinance No. 1399, adopting the 2015 Evaluation and Appraisal Review (EAR) based Amendments to Volume I; Goals, Objectives and Policies (GOPs) of the City Comprehensive Plan “(Comprehensive Plan)”, in accordance with requirements of Rule 73C-49, Florida Administrative Code, and s.163.3191, F.S.; and

**WHEREAS**, the State of Florida Department of Economic Opportunity (DEO), the State Land Planning Agency, reviewed the EAR-based Amendments to the City Comprehensive Plan (North Miami Amendment 15-2ER) under the state coordinated review process and, on June 23, 2016, issued a Notice of Intent finding said EAR-based Amendments to the City Comprehensive Plan adopted by Ordinance 1399 on April 26, 2016, to be in compliance, pursuant to s. 163.3184(4), F.S.; and

**WHEREAS**, s. 163.3184(3), F.S., provides that local governments may review and adopt comprehensive plan amendments under the expedited state review process, provided they do not involve plan amendments that: (1) qualify as small-scale development amendments, which may follow therefore the small-scale review process in s. 163.3187, F.S.; (2) are in an area of critical state concern designated pursuant to s. 380.05, F.S.; (3) propose a rural land stewardship area pursuant to s. 163.3248, F.S.; (4) propose a sector plan pursuant to s. 163.3245, F.S. or an amendment to an adopted sector plan; (5) update a comprehensive plan based on an evaluation and appraisal pursuant to s. 163.3191, F.S.; (6) propose a development that is subject to the state coordinated review process pursuant to s. 380.06; or (7) are new plans for newly incorporated municipalities adopted pursuant to s. 163.3167, F.S., which must follow therefore the state coordinated review process in s. 163.3184(4), F.S.; and

**WHEREAS**, ss. 163.3764, 163.3167, 163.3171 and 163.3202, F.S., give power and authority, and mandate that, in order to plan and guide its future development and growth, every

local government in the State, implements adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof within one (1) year after submission of its comprehensive plan or revised comprehensive plan; and

**WHEREAS**, on July 11, 2017, the Mayor and City Council of the City adopted updates to the Land Development Regulations (“LDRs”) and the Official Zoning Map under Chapter 29 of the City Code of Ordinances, in order to implement the 2015 Ear-based Amendments to the City Comprehensive Plan, consistent with the requirements of ss. 163-3184, 163.3202, 166.041(3)(c), F.S.; and

**WHEREAS**, Article 3, Division 11, Sections 3-1102(A) and 3-1105 through Section 3-1111 of the City LDRs set forth procedures for text amendments and future land use map changes to the Comprehensive Plan initiated by either the City or one (1) or more owners of record for parcel(s) located within the jurisdictional boundary of the City within the jurisdictional boundary of the City; and

**WHEREAS**, Article 3, Division 3, Section 3-302 of the City LDRs establishes a uniform notice and procedure in order to ensure procedural due process and maintain citizen access to the local government decision-making process relating to the approval of amendments to the texts and maps of the Comprehensive Plan within the jurisdictional boundary of the City; and

**WHEREAS**, Comprehensive Plan Policy 1.20.6 of the Future Land Use Element (FLUE), requires that a minimum of 75% of the ground floor gross area of a development in the Mixed Use land use designation contain retail; and

**WHEREAS**, the purpose of such requirement is to encourage compact development, and walkable street frontage; and

**WHEREAS**, in order to provide great flexibility, the City desires that the current language within Policy 1.20.6 be amended to limit this requirement to mixed use developments along a major corridor; and



**WHEREAS**, the Planning Commission, after a duly noticed public hearing held on March 6, 2018, reviewed and discussed the proposed Amendment to the FLUE, City staff's report, and heard testimony from the attending members of the public; and

**WHEREAS**, the Planning Commission found the proposed Amendment to the FLUE to be in compliance with state law and with applicable standards of the City LDRs, and therefore recommended that the Mayor and City Council take the appropriate action and adopt the proposed Amendment to the FLUE by passage of the attached ordinance; and

**WHEREAS**, s. 163.3184(11), F.S., requires that the Amendment to the FLUE shall be adopted by a majority of the Mayor and City Council by Ordinance; and

**WHEREAS**, the Mayor and City Council, after a duly noticed initial hearing held on July 10, 2018, reviewed and discussed the proposed Amendment to the FLUE and staff's recommendation, and authorized its transmittal to DEO and other reviewing agencies, pursuant to state law; and

**WHEREAS**, in accordance with the requirements of s.163.3184 (3)(c), F. S., the City has one hundred eighty (180) days from the receipt of agency comments to hold the second public hearing on whether to adopt the proposed Amendment to the FLUE by Ordinance; and

**WHEREAS**, pursuant to Article 3, Division 11, Section 3-1109(B) of the City LDRs, adoption of the proposed Amendment to the FLUE shall require concurrence of a majority of the City Council; and

**WHEREAS**, the Mayor and City Council, find the adoption of the proposed Amendment to the FLUE reflects the developmental vision and aspirations of the City, and further authorized its transmittal to DEO for a determination of completeness, in accordance with state law.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY**

**COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA THAT:**

**Section 1. Adoption.** The Mayor and City Council of the City of North Miami, Florida, hereby approve and adopt the proposed Amendment to the City of North Miami Comprehensive Plan identified herein.

**Section 2. Amendment.** An Amendment to Volume 1: Goals, Objectives and Policies of the City of North Miami 2016 Comprehensive Plan, specifically Policy 1.20.6 of the Future Land Use Element clarifying the ground floor retail requirement as follows:

CITY OF NORTH MIAMI  
VOLUME 1: GOALS, OBJECTIVES AND POLICIES OF THE CITY OF NORTH MIAMI  
2016 COMPREHENSIVE PLAN

\* \* \* \* \*

FUTURE LAND USE ELEMENT

\* \* \* \* \*

**Policy 1.20.6**

\* \* \* \* \*

Uses permitted in areas designated Mixed Use are as follows:

1. Residential dwelling units, subject to the limitation for a parcel as shown on the Future Land Use Map, and subject to the density and intensity limitations set forth in Policy 1.2.1. Mixed use low, medium and high may allow an additional density bonus not to exceed 15 du/ac, if developed in accordance with the policies contained under Objective 1.3 and 1.12 as further defined in the City's Land Development Regulations. A minimum of 75 percent of the ground floor gross area of a mixed use development along a major corridor ~~in the Mixed Use land use designation~~ shall contain retail uses. Mixed use development within the NRO or are subject to the density and height bonuses in accordance with the policies contained under Objective 1.15 as further defined in the City's Land Development Regulations. Mixed use development within the PCD are subject to the density bonuses in accordance with the policies contained under Objective 1.16 and further defined in the ~~2016~~ 2017 update of the City's Land Development Regulations.

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**Section 3. Repeal.** All ordinances or parts of ordinances in conflict or inconsistent are repealed.

**Section 4. Conflict.** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are repealed.

**Section 5. Severability.** If any word, clause, phrase, sentence, paragraph or section of this Ordinance is held to be invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other word, clause, phrase, sentence, paragraph or section of this ordinance.

**Section 6. Scrivener's Errors.** The City Attorney may correct scrivener's errors found in this Ordinance by filing a corrected copy with the City Clerk.

**Section 7. Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

**Section 8. Effective Date.** This Ordinance shall not become effective until thirty-one (31) days after the State Land Planning Agency notifies the City that the plan amendment packet transmitted is complete.

**PASSED AND ADOPTED** by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 10th day of July, 2018.

**PASSED AND ADOPTED** by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 9th day of October, 2018.

  
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DR. SMITH JOSEPH

ATTEST:



MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

MAYOR

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:



JEFF P. H. CAZEAU, ESQ.  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Desulme

Seconded by: Galvin

**Vote:**

Mayor Smith Joseph, D.O., Pharm. D.  
Vice Mayor Carol Keys, Esq.  
Councilman Scott Galvin  
Councilman Philippe Bien-Aime  
Councilman Alix Desulme

<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)